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Twenty-ninth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999). It covers both the issues of missing Kuwaiti and third-country nationals and of missing Kuwaiti property, including national archives. My twenty-eighth report (S/2009/539) was submitted in October 2009.

2. At the Security Council's request, contained in a letter dated 26 March 2008 (S/2008/206), I submitted a comprehensive report on 8 April 2009 (S/2009/190), which contained a proposal to introduce a period of confidence- and cooperation-building between Iraq and Kuwait lasting until June 2010 to further encourage the parties to achieve visible and significant progress and to strengthen their practical cooperation. The Security Council supported that proposal.

II. Background

3. During the period under review, the Cooperation Council for the Arab States of the Gulf, the League of Arab States and the Organization of the Islamic Conference kept the issues in the present report on their agenda.

4. The Ministerial Council of the Gulf Cooperation Council, at its 114th session, held in Riyadh on 9 March 2010, stressed the need for Iraq to complete the implementation of all relevant Security Council resolutions, and urged the United Nations and other concerned parties to continue their efforts to conclusively determine the fate of the Kuwaiti missing persons and prisoners of war and other missing third-country nationals, as well as the return of the Kuwaiti national archives.

5. The Council of the League of Arab States, meeting at the summit level on 27 and 28 March 2010 in Sirte, Libyan Arab Jamahiriya, renewed its condemnation of the serious violations of human rights perpetrated during the occupation of Kuwait and the obliteration of the facts concerning Kuwaiti and other national prisoners and missing persons, the remains of many of whom have been found in mass graves. It expressed the deepest sympathy for the families of the victims whose remains have been identified and concern for the ordeal of the families of those whose whereabouts remain unknown. It commended the cooperation between

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the Governments of Iraq and Kuwait in the efforts towards uncovering the fate of all those Kuwaiti and other missing persons and prisoners. The League of Arab States Council also noted Iraq's gratitude to Kuwait for the grant of $1 million to the Iraqi Ministry of Human Rights to support its efforts in that field.

6. The Council of Foreign Ministers of the States members of the Organization of the Islamic Conference, at its 37th session, held from 18 to 20 May 2010 in Dushanbe, condemned the massive violations of human rights and the killing of Iraqis, Kuwaitis and citizens of third countries by the former Iraqi regime in contravention of international law and international humanitarian law, and welcomed all measures taken by the Government or Iraq to prosecute the criminals.

7. The facts relevant to the mandate of the High-level Coordinator were outlined in paragraphs 24 to 29 of my report (S/2009/385) pursuant to paragraph 5 of Security Council resolution 1859 (2008).

III. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains

8. Throughout the reporting period, the High-level Coordinator, Ambassador Gennady Tarasov, focused his efforts on encouraging the intensification of the search for the missing Kuwaiti and third-country nationals and property in the framework of the confidence- and cooperation-building process between Iraq and Kuwait. To that end he travelled to the region in January, March and May 2010. Those trips coincided with the meetings of the Technical Subcommittee of the Tripartite Commission, which is the primary mechanism for dealing with the issue of persons unaccounted for from the 1990/91 Gulf war. He maintained regular contacts with representatives of Iraq, Kuwait and other members of the Technical Subcommittee.

9. The Coordinator was received on 20 May 2010 by the Prime Minister, Sheikh Naser Al-Mohammad Al-Ahmad Al-Sabah, and the Deputy Prime Minister and Foreign Minister of Kuwait, Sheikh Mohammed Al-Sabah Al-Salem Al-Sabah. The Kuwaiti Government officials stressed the importance of clarifying the fate of missing Kuwaiti nationals, which continued to be a source of anguish for many families in their country, as well as the Kuwaiti property including the national archives. They appreciated the role played by the United Nations and the Security Council in pursuing this humanitarian issue.

10. The Chairman of the Kuwaiti National Committee on Missing Persons and Prisoner of War Affairs and the head of the Iraqi delegation to the Technical Subcommittee regularly briefed the Coordinator on developments regarding the search for the missing Kuwaiti and third-country nationals. Both found it necessary to accelerate practical steps on the ground with a view to achieving progress.

11. At the 63rd meeting of the Technical Subcommittee (January 2010) Kuwait presented its plan of action and supporting documents, which included lists of names and sketches of Iraqi security officials active during the occupation of Kuwait (see annex I). The Kuwaiti plan provided for wider information-gathering efforts with regard to burial sites and witnesses and also urged Iraq to reach out to local authorities, sheikhs and imams to help to obtain information on the missing

persons and property. The plan was accepted by the Technical Subcommittee as a non-binding document.

12. The activities of Iraq in the search for missing Kuwaiti and third-country nationals included publishing their pictures and names on the website of the Ministry of Human Rights. The Ministry requested anyone with information on the missing to come forward. Iraq formed an Inter-Ministerial Committee to deal with this issue, consisting of the Ministries of Human Rights (Chair), Defence, the Interior and National Security. The Committee has held several meetings since 16 February 2010 and the Kuwaiti plan was made available to the participants.

13. Iraq identified a witness who helped to find a new burial site near Ramadi. Samples of skeletal material from the site were in March handed over to Kuwait through the International Committee of the Red Cross (ICRC) for DNA analysis. While the samples may not match the reference data of the Kuwaiti missing persons, the step was welcomed by the members of the Technical Subcommittee as it was undertaken by Iraq on its own initiative.

14. Iraqi technical teams examined several sites in accordance with the coordinates provided by Kuwait but no human remains were found. The Iraqi delegation to the Technical Subcommittee informed the Coordinator that Iraq had acquired certain additional experience in genetic extraction and DNA profiling, although a shortage of specialized equipment remained an acute problem.

15. In a related development, a team of experts and forensic specialists from ICRC, Iraq, Kuwait, the United States of America and the United Kingdom of Great Britain and Northern Ireland discovered and exhumed the remains of 55 Iraqi military personnel in northern Kuwait on 6 May 2010. The remains were subsequently handed over to Iraq. This success, coupled with the return of the remains of several Iraqi soldiers in March, demonstrated the effectiveness of sustained and professional action in finding missing people despite the passage of so many years. The Coordinator was informed that a similar team planned to undertake a mission later in 2010 to Nasseriya, Iraq, where the remains of Kuwaiti missing persons may be buried among others.

16. I kept the issue of the missing Kuwaiti and third-country nationals under my constant purview. On 21 January 2010, I wrote to the Prime Minister of Kuwait welcoming the decision of the Government of Kuwait to contribute US$ 974,000 to a project, sponsored by the United Nations Assistance Mission for Iraq and the United Nations Office for Project Services (UNOPS), aimed at building the capacity of the Ministry of Human Rights of Iraq with regard to mass grave excavation and the identification of missing persons. A memorandum on the subject, between the Government of Kuwait represented by the Permanent Mission of Kuwait to the United Nations and UNOPS, was signed on 27 May.

17. On 5 May 2010, I discussed in New York the issue of Kuwaiti missing persons and property with the visiting Foreign Minister of Kuwait, Sheikh Mohammed Al-Sabah Al-Salem Al-Sabah, who reaffirmed the need to accelerate the implementation of the mandate outlined in paragraph 14 of Security Council resolution 1284 (1999) and welcomed the role played by the High-level Coordinator. He noted that Kuwait's grant to the Iraqi Ministry of Human Rights was the reflection of Kuwait's willingness to help Iraq to find the remains of missing

persons regardless of their nationality. Kuwait viewed this as a humanitarian gesture aimed at strengthening confidence and trust between the two peoples.

18. On 15 April 2010, I sent letters to the Prime Ministers of Iraq and Kuwait calling for further efforts to achieve progress in the search for missing persons and property before June 2010 which would enable me to report accordingly to the Security Council. Iraq and Kuwait were requested to provide perspectives and practical suggestions for inclusion in the present report.

19. The Prime Minister of Kuwait in his reply dated 12 May 2010 (see annex II) stressed that the issue of missing Kuwaiti persons and property should be taken to a new and practical level, with a view to expediting the implementation by Iraq of its international commitments under the relevant Security Council resolutions, thereby strengthening the process of building trust and cooperation between the two countries. The Prime Minister suggested that the mandate of the High-level Coordinator be continued and the confidence-building period be extended for another year.

IV. Recent activities with regard to the return of Kuwaiti property

20. I am concerned by the fact that the Kuwaiti national archives have not been found and no credible information about their whereabouts has emerged. In all his contacts, the Coordinator consistently stressed the need to intensify the search for the national archives, to which Kuwait attaches particular importance.

21. On 4 February 2010, the Permanent Representative of Iraq to the United Nations informed the Coordinator that the Iraqi Ministry of Foreign Affairs had published an announcement in the official newspaper, *Al-Sabah*, calling on anyone who possessed Kuwaiti documents or property seized by the former regime during the occupation of 1990 to contact the Ministry of Foreign Affairs so that they could be returned to Kuwait.

22. The Coordinator, in his contacts with Iraqi representatives, called for sustained and concerted action to be taken with regard to clarifying the fate of the Kuwaiti archives and other properties and suggested that an official Iraqi body be set up to lead and coordinate efforts in this regard.

V. Observations

23. It appears that the confidence- and cooperation-building period between Iraq and Kuwait, launched in April 2009, has proved to be useful in galvanizing the search for the missing Kuwaiti and third-country nationals. It has helped to strengthen the practical cooperation between the parties concerned and to streamline the activities of various Iraqi Government bodies and institutions under the Inter-Ministerial Committee, thus demonstrating that a genuine effort can bring results.

24. The current spirit of commitment and positive interaction among the members of the Tripartite Commission and its Technical Subcommittee has been a remarkable achievement and needs to be translated into tangible outcomes. I commend the concrete efforts undertaken by Iraq to meet its responsibilities under paragraph 14 of

Security Council resolution 1284 (1999) and the proactive and supportive attitude of Kuwait. I appreciate the efforts of ICRC and other members of the Tripartite Commission.

25. Nevertheless, the positive results attained to date have been primarily of a preparatory nature. No confirmed remains of Kuwaiti or third-country nationals (of the 369 people still on the list of the missing) have been found during the reporting period. The main task of discovering and identifying them, and finally closing the files, lies ahead. This objective can be achieved only through close cooperation and building bridges of trust between Iraq and Kuwait. The continuing support of the international community and of the Security Council is essential for making significant and tangible progress in this important humanitarian issue.

26. I call on Iraq and Kuwait to continue to act in the spirit of the confidence- and cooperation-building process and apply this to the resolution of a larger set of outstanding issues between the two countries which should contribute to the further strengthening of their good-neighbourly relations and enhancing regional stability.

27. I recommend that the Security Council extend the financing of the Coordinator's mandate until December 2010 so as to build the present momentum towards the implementation of paragraph 14 of Security Council resolution 1284 (1999).

Annex I

Letter dated 17 March 2010 from the Deputy Chairman of the National Committee for Missing Persons and Prisoner of War Affairs addressed to the High-level Coordinator

I have the honour to refer to the meeting with you held on 16 March 2010 at the headquarters of the National Committee for Missing Persons and Prisoner of War Affairs, at which you were advised of the outcome of the 64th meeting of the Technical Subcommittee of the Tripartite Commission.

I should like to attach hereto a copy of the plan of action for the search for the remains of Kuwaiti prisoners and missing persons that was submitted to the Tripartite Commission and incorporated into the agenda of the Technical Subcommittee (see enclosure).

(*Signed*) Ibrahim Majed **Al-Shaheen**
Deputy Chairman of the Committee

Enclosure

Proposal concerning a parallel plan of action for the search in Iraq for the remains of Kuwaiti prisoners and missing persons

Against the background of the activation of Technical Subcommittee endeavours, which were essentially instituted with a view to accelerating results with respect to the issues of which it is seized; in the light of the stability of the security situation in Iraq; in view of the need to continue field operations to uncover mass graves in the areas specified and others; and given the nature of the work at those sites, it is necessary to have recourse to more than one plan for uncovering the remains.

In the hope of determining the fate of Kuwaiti prisoners and missing persons and ending the suffering of their families, set forth below is a proposed plan for achieving rapid results in this humanitarian issue.

The plan is divided into four parts, as follows:

1. To get to the root of the matter through discussions with security apparatuses and personnel.

2. To carry out investigations among ordinary people.

3. To use Iraqi documents to conduct the investigation.

4. To use Iraqi documents that were abandoned in Kuwait and copies of Iraqi prisoner sketches.

Work in those four areas may be summarized as follows:

1. To get to the root of the matter through discussions with security apparatuses and personnel

This part consists of the following:

(a) To investigate information from all security personnel who had any connection to prisoners during the invasion and until 2003, such as Ali Hassan Al-Majid and other known leaders and officers responsible for this file under the previous regime.

(b) To identify and obtain information from former heads of security in southern governorates where detention centres or burial sites are located, including Basra, Nasiriyah, Samawah, Amarah, Ramadi, Karbala and Najaf.

(c) To identify and obtain information from former prison governors in Iraqi governorates, including Basra, Nasiriyah, Samawah, Amarah, Ramadi, Karbala and Najaf.

(d) To identify and question individuals and soldiers who worked in security installations and whose work concerned Kuwaiti prisoners and missing persons.

2. To carry out investigations among ordinary people

This part consists of the following:

(a) To establish contacts with the governors of the southern governorates and coordinate with them with regard to the best means of obtaining information on Kuwaiti prisoners and missing persons from people in those governorates.

(b) To notify the governors of southern governorates of the existence of graves in their governorates and transfer to them responsibility for the provision of information on those sites. Places in those governorates should be designated for the reception of citizens who have any relevant information, and competent teams should investigate such information in preparation for identifying burial sites.

(c) To establish contacts with tribal leaders and coordinate with them in order to obtain any information on Kuwaiti prisoners and missing persons that may have reached them. Given the stature of those leaders in Iraqi society, it may encourage people to provide any information they have about Kuwaiti prisoners and missing persons.

(d) To involve members of local councils in the search for information at the popular level, given the direct relations they have with the population of their districts and the popular trust that they enjoy, which may mean that anyone who has information is not so intimidated that they will not pass it on.

(e) To use all forms of the Iraqi media, including television, radio and street advertising, in order to obtain information on Kuwaiti prisoners and missing persons. Announcements should be so formulated as to assure anyone with information that they will be performing a humanitarian service.

3. To use Iraqi documents to conduct the investigation

This part consists of the following:

(a) To seek official documents related to Kuwaiti prisoners and missing persons kept by the authorities and the people, and by individuals in Iraq or by foreign parties.

(b) To review the documents kept by the United States for information on Kuwaiti prisoners and missing persons.

(c) To establish the necessary contacts with the members of the Iraqi delegations who took part in negotiations related to Kuwaiti prisoners and missing persons under the former regime.

4. To use Iraqi documents that were abandoned in Kuwait and copies of Iraqi prisoner sketches

Kuwait is responsible for providing information in this area. It has already provided copies of all Iraqi documents that were abandoned in Kuwait by Iraqi forces during the 1991 war of liberation.

This part consists of the following:

To resubmit copies of the Iraqi documents held by Kuwait that were abandoned by Iraqi forces during the 1991 war of liberation, in order to allow the Iraqi side to closely examine them and identify persons responsible for Kuwaiti prisoners and missing persons, preparatory to questioning and following up information from them.

Implementation of the plan of action

1. Kuwait should provide any Iraqi documents in its possession that relate to Kuwaiti prisoners.

2. Kuwait should provide any information it has on Iraqi prison governors and officers who, on the basis of the information Kuwait has, are connected with prisoners.

3. The current administrative apparatus in Iraq, as represented by the Ministry of Human Rights, should be persuaded to establish contacts with other relevant bodies mentioned in this plan, including governors and the security apparatus.

4. Iraq should provide the Technical Subcommittee with the names of security personnel, heads of security and prison governors under the former regime as soon as they have been identified.

5. Iraq should provide the Technical Subcommittee with the information it has obtained from persons it has interviewed, including security personnel, governors, tribal leaders and members of the former Iraqi delegation who took part in negotiations related to Kuwaiti prisoners and missing persons.

6. Iraq should investigate and verify the information it obtains and inform the Technical Subcommittee of the outcome of those investigations.

7. The United States delegation should provide any documents it has discovered that relate to Kuwaiti prisoners and missing persons.

8. Iraq should inform the Technical Subcommittee of any measures it has taken in the media with a view to investigating the fate of Kuwaiti prisoners and missing persons. It should also inform the Technical Subcommittee of any information produced by those measures.

9. Iraq should implement all aspects of this plan, including contacts, coordination and the identification of wanted persons within at most three months from the date of its adoption. Kuwait should resubmit to Iraq copies of the Iraqi documents held by Kuwait that were abandoned by Iraqi forces in 1991, together with copies of sketches of officers and soldiers, within one week of the date of the adoption of this plan.

Annex II

Letter dated 12 May 2010 from the Prime Minister of Kuwait addressed to the Secretary-General

I should first like to thank you for your letter dated 15 April 2010, which concluded with the wish to obtain the views and suggestions of the Government of Kuwait on the proposed contents of the report that you will submit to the Security Council in June 2010, pursuant to Security Council resolution 1284 (1999), paragraph 14.

While I appreciate your letter's commendation of the energetic support provided by Kuwait with respect to the financing of the United Nations project for building the capacities of the Iraqi Ministry of Human Rights to search for missing persons, I assure you that we believe that the issue of Kuwaiti and other nationals missing in Iraq must be taken to a new and practical level, with a view to expediting implementation by Iraq of its international commitments, as provided under the relevant Security Council resolutions. This humanitarian issue is of the greatest concern to Kuwait and requires that you and the international community uphold the mandate of the High-level Coordinator and ensure that he is able to complete the noble task with which he is entrusted, particularly in view of the fact that Iraq has recently shown greater cooperation in working towards the closure of the file on this important humanitarian issue.

You are well aware that Kuwait has for many years tirelessly proposed programmes of work and practical measures within the framework of Tripartite Commission and Technical Subcommittee meetings. Most recently, we proposed a programme of work, a copy of which was transmitted on 1 April 2010 to the High-level Coordinator, Ambassador Gennady Tarasov, with a view to concluding this humanitarian issue, which has persisted for two decades. The time has come for the Kuwaiti people, the families of the missing persons and the peoples of the relevant other countries to learn the fate of their missing persons.

While assuring you of the importance of the amicable relations between our two countries, it is our view that the way for Iraq to complete its obligations under Security Council resolutions that were adopted pursuant to Chapter VII of the Charter of the United Nations is to oblige it to resolve all the issues and problems that resulted from the occupation of Kuwait on 2 August 1990, which include the issue of Kuwaiti and other nationals missing in Iraq and the cessation of violations and maintenance of the border markers, thereby strengthening the process of building trust and cooperation between the two countries.

With respect to the return of Kuwaiti property, I am sorry to say that there is nothing new with regard to the restoration of the Kuwaiti national archives, the fate of which is unknown to this day. Given that Kuwait has put forward many programmes of work and practical measures relating to the issue of missing Kuwaiti and other nationals, we hope that Iraq will devise plans to locate Kuwaiti property and, in particular, the national archives, and will inform the High-level Coordinator to that effect. That would strengthen the trust- and cooperation-building stage that will end in June 2010. Action should be taken to extend this stage for a further year in order to review what has been achieved in respect of this important file.

(*Signed*) Naser Al-Mohammad Al-Ahmad **Al-Sabah**
Prime Minister